

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

NEW ENGLAND CENTRAL RAILROAD, INC.,)	
)	
Plaintiff)	
)	
v.)	
)	
SPRINGFIELD TERMINAL RAILWAY CO.)	C. A. No. 04-30235 MAP
AND BOSTON AND MAINE CORPORATION,)	
)	
Defendant(s))	
)	
)	

**MEMORANDUM IN SUPPORT OF MOTION OF SPRINGFIELD TERMINAL
RAILWAY COMPANY AND BOSTON AND MAINE CORPORATION TO
COMPEL DISCOVERY**

Defendants, Springfield Terminal Railroad Company and Boston and Maine Corporation (collectively “ST”), moves that this honorable Court, in accordance with Fed. R. Civ. P. 37(d) and Local Rule 37, enter an order compelling the Plaintiff, New England Central Railroad, Inc. (“NECR”), to serve responses to the first document requests and first set of interrogatories, and in support of this motion states:

1. On or about June 30, 2006, Defendant, ST served its first document requests and first set of interrogatories on Plaintiff, NECR.
2. On July 31, 2006, NECR’s counsel, Richard Davidson, Jr., was given a two week extension, via phone, by ST’s counsel, Eric Hirschhorn. Attorney Davidson was supposed to follow up with a confirming letter, but did not do so.

3. On August 22, 2006, Eric Hirschhorn emailed Attorney Davidson requesting the discovery again (*Exhibit A hereto*).
4. On August 30, 2006, Eric Hirschhorn emailed Attorney Davidson, citing Local Rule 37.1, requesting an immediate discovery conference regarding NECR's failure to provide the requested discovery and, secondly, informing counsel that ST would be filing a Motion to Compel Discovery, unless he would confer with ST and provide the requested discovery (*Exhibit B hereto*).
5. On August 31, 2006, at 4:50 pm, Eric Hirschhorn returned a call made earlier in the day by Attorney Davidson, but he had already left for the day. Attorney Davidson was left a message to contact Attorney Hirschhorn. The discovery has still not been received.

WHEREFORE, Defendant, ST, requests the Court to order Plaintiff, NECR, to serve responses to the first document requests and first set of interrogatories within five days and award reasonable expenses, including attorney's fees, to ST incurred as a result of making this motion.

Respectfully submitted,

/s/ John P. Curtin
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Dated: September 18, 2006

*Counsel for Springfield Terminal
Railway Company and Boston and
Maine Corporation*

Certificate of Service

I hereby certify that the foregoing document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants on September 18, 2006.

/s/ John P. Curtin
John P. Curtin